

# **Unemployment Compensation (UC): Eligibility for Students Under State and Federal Laws**

Updated April 1, 2013

**Congressional Research Service**

<https://crsreports.congress.gov>

R42707

## Summary

The recent economic recession and subsequent recovery period has produced one of the most challenging labor markets in recent decades. Many workers lost their jobs during this time period, as others were just entering the market for the first time. As a strategy to cope with the difficult employment situation, many individuals entered school to acquire skills to become more competitive, while others never left, remaining in school to postpone the employment search. However, due to the prolonged nature of the recovery, many students and workers remain jobless and struggle to find work. According to Bureau of Labor Statistics (BLS) data, in February 2013, approximately 12.0 million workers remained jobless, of which almost 3.5 million individuals aged 16 to 24 were unemployed.

Those that have gone back to school, and have now graduated, still face a competitive job market, and may need to search for work for a prolonged period of time. According to BLS data, in June 2012, there were approximately 3.4 unemployed workers for every available job, and almost 40% of the unemployed have been jobless for more than six months. Because of this economic climate, Congress has been interested in not only job creation and how students are coping with the competitive job market, but whether they are receiving income support during times of unemployment in order to cope.

Unemployment Compensation (UC) is a joint federal-state program that provides income support payments to eligible workers who lose their jobs through no fault of their own. Federal law sets out broad guidelines with regard to how the UC program operates and how it should be administered. State laws establish eligibility criteria for who qualifies for the program. In the case of a student who becomes unemployed, eligibility would depend on how their respective state treats students within the UC system.

Most states disqualify students from UC benefits while they are in school or disqualify individuals from UC benefits if they leave work to attend school. This is typically due to the presumption that students would be unavailable for work during the time that they are in school. However, exceptions and variations exist from state to state. Many workers who lost their jobs and remain in school may be eligible for UC benefits depending on their circumstances and how their respective states treat students.

This report describes these state variations in further detail and how states consider students within the framework of their own unique UC programs.

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## Introduction

With the official end of the most recent recession in June 2009, congressional interest remains heightened with regard to job creation and the income security of the workers in this country. Traditionally, the path to high wage growth and secure employment for workers has been to pursue and complete education through vocational schools, post-secondary schools, or other institutions. However, employment prospects remain dim for the growing number of recent graduates. Many young workers who have lost their jobs or are still in school face challenges such as unemployment, or if they have a job, underemployment. In February 2013, among individuals aged 16 to 24 in the United States, the unemployment rate was 16.3%.<sup>1</sup>

Workers who have lost their job through no fault of their own often rely on Unemployment Compensation (UC) benefits for income support during periods of unemployment. Current graduating students, as well as recent graduates from years past, may have worked during previous periods, or worked while they were attending school. If they earned sufficient wages to qualify for UC benefits, they may be eligible to receive this form of income support if they became subsequently unemployed (depending on state considerations).<sup>2</sup> However, students who worked previously, or are concurrently working and attending school, may face barriers and impediments to their UC claims once they are unemployed.

This can occur in a number of ways. For example, a student could be attending school full-time, while also working full-time in covered employment, and then lose his or her job. In addition, a worker could have a job in covered employment, and also start school, and subsequently lose his or her job. In both cases, the individual may apply for UC benefits, but the eligibility for those benefits may differ according to the governing state.

Many states disqualify workers from UC benefits for school attendance, although some states make exceptions for certain students, typically those receiving approved training or training under Trade Adjustment Assistance for Workers (TAA) program, which provides federal assistance to workers adversely affected by foreign trade. This report examines the treatment of students as a special group within the UC system, and how states define student eligibility for their respective state UC programs.<sup>3</sup>

<sup>1</sup> Bureau of Labor Statistics (BLS), Economic News Release, Table A-10, selected unemployment indicators, seasonally adjusted, at <http://www.bls.gov/news.release/empst.t10.htm>.

<sup>2</sup> For a discussion on qualifying wages for UC benefits, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs. A comprehensive list of states' qualifying wages can be found at <http://www.workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2012/monetary.pdf>, Table 3-3.

<sup>3</sup> The Employment and Training Administration (ETA) within U.S. Department of Labor (DOL) publishes an annual *Comparison of State Unemployment Insurance Laws*. The information provided in this report is based in large part on information from this comparison guide. The guide is issued for reference and research purposes and includes the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. States annually provide updates and corrections. State laws are generally reflected in the comparison guide, but it does not provide an official interpretation of each state's laws. For the full text of state law, the state statute should be consulted. For official interpretations of state law, the individual state's rules and regulations, administrative and court decisions, and opinions of attorneys general should be consulted. The current *Comparison of State Unemployment Insurance Laws* can be found at <http://ows.doleta.gov/unemploy/comparison2012.asp>.

## General Eligibility Criteria

UC is a joint federal-state program that provides unemployment benefits to eligible workers. The U.S. Department of Labor (DOL) administers the federal portion of the UC system, which operates in each state, the District of Columbia, Puerto Rico, and the Virgin Islands. The UC program is financed by federal taxes under the Federal Unemployment Tax Act (FUTA) and by state payroll taxes under the State Unemployment Tax Acts (SUTA).<sup>4</sup> In addition to establishing how the UC program is financed, these laws also establish certain criteria for UC eligibility.

Federal law excludes few positions or types of workers from coverage (with certain exceptions such as the self-employed or others as noted below). Because federal law provides broad guidelines for UC coverage, eligibility, and determination, specifics of each UC program are left to the determination of each state. Although general similarities exist between states, each state establishing its own criteria results in essentially 53 different UC programs.

State laws and program regulations determine UC benefit eligibility, payments, and duration. Generally, UC benefits are available to eligible workers who have lost their jobs through no fault of their own and are willing, able, and available to work. In addition, UC eligibility is typically based on attaining qualified wages and employment covered in a 12-month period (called a base period) prior to unemployment. All states require a worker to earn a certain amount of wages or to work a certain period of time (or both) within the base period to be monetarily eligible to receive any UC benefits.<sup>5</sup>

## Recently Unemployed Graduates

Nothing in federal law precludes recent graduates from receiving UC benefits if unemployed. However, the likelihood of a recent unemployed graduate receiving UC benefits is low. Recent college graduates and younger individuals may not be receiving UC benefits for a number of reasons,<sup>6</sup> but basic criteria noted above often dictate eligibility. Generally, to be eligible for UC benefits, a recent graduate would need to have worked in covered employment, earned sufficient wages in his or her base period, and left his or her work involuntarily.

In February 2013, the unemployment rate for individuals 16 to 24 years of age was 16.3%, with about 3.5 million individuals in this age group unemployed in the United States. Moreover, during that month, individuals 24 years of age or under received 8.9% of total UC benefits<sup>7</sup> yet made up 29.1% of the unemployed population.<sup>8</sup> Although younger workers generally earn lower wages and would likely therefore receive less return in UC benefits, this difference is substantial. Approximately 1 in 10 unemployed workers aged 16 to 24 receives unemployment insurance.<sup>9</sup>

<sup>4</sup> For more information on UC financing, and the operation of FUTA and SUTA, see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker.

<sup>5</sup> For a broader discussion on the UC Program, eligibility, and determination of UC benefits, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

<sup>6</sup> For more information on young individuals, or “disconnected” youth, see CRS Report R40535, *Disconnected Youth: A Look at 16- to 24-Year Olds Who Are Not Working or In School*, by Adrienne L. Fernandes-Alcantara and Thomas Gabe.

<sup>7</sup> U.S. Department of Labor, Employment and Training Administration, “Percent Distribution of Characteristics of the Insured Unemployed Report for Calendar Month 2/2013,” <http://ows.doleta.gov/unemploy/chart.asp>.

<sup>8</sup> Congressional Research Service (CRS) calculations using Current Population Survey (CPS) data for February 2013.

<sup>9</sup> Maria E. Enchautegui, *Disadvantaged Workers and the Unemployment Insurance Program*, Urban Institute,

Moreover, recent testimony before the Joint Economic Committee of Congress suggested that individuals graduating from college during a large recession are likely to face reduced earnings that persist for up to 10 years compared with graduates during a boom economy.<sup>10</sup>

## Federal Unemployment Tax Act Eligibility Restrictions

UC benefits are financed through employer taxes that are established by federal and state law. Federal taxes on employers are provided under the authority of the Federal Unemployment Tax Act (FUTA), whereas state taxes are provided under the authority of the State Unemployment Tax Acts (SUTA). Federal law defines which jobs a state UC program must cover and provides broad guidelines concerning benefit eligibility, in order for the state's employers to avoid paying the maximum FUTA tax rate on each employee's annual pay.<sup>11</sup> State laws govern student eligibility, but FUTA provides further guidelines concerning the eligibility of school personnel for UC benefits.

## Student Eligibility

Most states disqualify workers from UC benefits if attending school and some states extend this disqualification to vacation periods. The typical presumption behind this policy is that students are unable or unavailable to accept full-time work while in school. Workers must have established wages prior to receiving UC benefits, and the sufficiency of earned wages often depends on the part-time or full-time status of their job. States vary in how they establish definitions of a student, as well as whether they distinguish between part-time and full-time students for the purposes of UC benefits eligibility. In addition, states differ in how they establish these policies, whether through statute, regulation, or case law.

## School Personnel

FUTA requires states to disqualify school employees from UC benefits if they are unemployed between school terms or vacation periods. This denial applies if the individual has a contract or reasonable assurance of returning to work when the school reopens. This denial applies to instructional, research, or principal administrative employees.

FUTA also requires states to deny benefits to these school personnel if they perform services in regular, but not successive, years or terms. For example, school personnel who only work during the academic year would not be eligible for UC benefits during the summer period. In this case, personnel are not eligible for compensation during the entire period between the regular but non-

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Washington, DC, June 2012, p. 6, <http://www.urban.org/UploadedPDF/412620-Disadvantaged-Workers-and-the-Unemployment-Insurance-Program.pdf>. Calculation is based on 2008 Survey of Income and Program Participation (SIPP) Panel, 2010 data.

<sup>10</sup> From Philip Oreopoulos, Till von Wachter, and Andrew Heisz, "The Short- and Long-Term Career Effects of Graduating in a Recession: Hysteresis and Heterogeneity in the Market for College Graduates," *Institute for Study of Labor Discussion Paper*, no. 3578 (June 2008). Till von Wachter, an Economist at Columbia University, provided this analysis as part of testimony submitted to the U.S. Congress, Joint Economic Committee on "Long Term Unemployment: Causes, Consequences, and Solutions," April 29, 2010, p. 5. The testimony can be found at [http://www.columbia.edu/~vw2112/testimony\\_JEC\\_vonWachter\\_29April2010.pdf](http://www.columbia.edu/~vw2112/testimony_JEC_vonWachter_29April2010.pdf).

<sup>11</sup> For more information on FUTA and SUTA, and a broader discussion on covered jobs, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

successive academic years or terms. This denial also applies to vacation or holiday periods within school years or terms.<sup>12</sup>

The report further discusses how states treat students in two circumstances: whether they qualify for UC benefits while attending school (e.g., a student loses his or her job while in school) or whether they qualify for UC benefits if leaving work to attend school.

## Eligibility While Attending School

Most states disqualify students from UC benefits while they are attending school. States' policies tend to presume that students will be unavailable for full-time work because school hours often overlap with standard work hours. In addition, many students, if working part-time, would likely have insufficient prior earnings to qualify for UC benefits. However, if certain conditions are met, some states may allow students to remain eligible for UC benefits.

Exceptions to disqualification for UC benefits vary considerably. Almost 45% of states allow students to remain eligible for UC benefits if school attendance does not interfere with the ability and availability to accept suitable work or the student can demonstrate that he or she is seeking and able to accept full-time work. In addition, almost one-third of states allow students to qualify while in school if they are attending an approved training program or can demonstrate that they are willing to quit school or adjust class hours if suitable work is offered. A few states have stricter UC eligibility requirements and do not provide exceptions for students to qualify for UC benefits. Conversely, a few states have little restriction on UC eligibility for students attending school. **Table 1** shows the variation among the states.

As **Table 1** shows, just three states (Alabama, New York, and South Carolina) do not provide an exception to benefits disqualification if attending school. Many state UC programs will consider students eligible if certain conditions are met, namely through the combination of availability for work or seeking full-time work, or if the student is attending appropriate training. A few states specify that a student may be eligible if a major part of his or her base period wages was for services performed while in school.

**Table 1. Exceptions to UC Benefit Disqualification While Attending School**

	School attendance does not interfere with availability or student must seek full-time work	Willing to quit school or attending training (vocational, approved, or TAA)	Earned sufficient wages while in school	Other <sup>a</sup>	Not UC eligible
Alabama					X
Alaska	X				
Arizona	X				
Arkansas <sup>b</sup>		X			
California <sup>b</sup>	X				
Colorado <sup>b</sup>	X				
Connecticut <sup>b</sup>	X				
Delaware				X	

<sup>12</sup> U.S. Department of Labor, Employment and Training Administration, *Comparison of State Unemployment Insurance Laws*, Washington, DC, 2012, Section 5, p. 37-38.

	School attendance does not interfere with availability or student must seek full-time work	Willing to quit school or attending training (vocational, approved, or TAA)	Earned sufficient wages while in school	Other <sup>a</sup>	Not UC eligible
District of Columbia	X				
Florida	X				
Georgia		X			
Hawaii		X			
Idaho <sup>b</sup>		X			
Illinois <sup>b</sup>		X			
Indiana	X				
Iowa	X				
Kansas <sup>b</sup>	X				
Kentucky	X				
Louisiana <sup>b</sup>	X				
Maine		X			
Maryland	X				
Massachusetts <sup>d</sup>		X			
Michigan		X			
Minnesota <sup>b</sup>		X			
Mississippi	X				
Missouri		X			
Montana	X				
Nebraska <sup>b</sup>			X		
Nevada	X				
New Hampshire	X				
New Jersey <sup>b</sup>			X		
New Mexico <sup>b</sup>				X	
New York					X
North Carolina				X	
North Dakota <sup>b</sup>			X		
Ohio <sup>b</sup>	X				
Oklahoma <sup>b</sup>		X			
Oregon	X				
Pennsylvania	X				
Puerto Rico				X	
Rhode Island	X				
South Carolina		X			
South Dakota					X
Tennessee	X				
Texas <sup>b</sup>		X			
Utah <sup>d</sup>		X			
Vermont				X	
Virginia	X				
Virgin Islands				X	
Washington <sup>b</sup>		X			
West Virginia		X			
Wisconsin	X				



	School attendance does not interfere with availability or student must seek full-time work	Willing to quit school or attending training (vocational, approved, or TAA)	Earned sufficient wages while in school	Other <sup>a</sup>	Not UC eligible
Wyoming			X		
<b>Total</b>	<b>24</b>	<b>17</b>	<b>4</b>	<b>5</b>	<b>3</b>

**Source:** Congressional Research Services (CRS) table compiled from *Comparison of State Unemployment Insurance Laws*, 2012, U.S. Department of Labor, Employment and Training Administration, pages 5-34 to 5-37.

- a. The U.S. Virgin Islands do not have restrictions on UC eligibility for students attending school. Delaware and North Carolina do not disqualify workers from UC benefits solely on the basis of school attendance. New Mexico and Vermont provide exceptions for individuals seeking part-time work. Information was unavailable for Puerto Rico.
- b. State statute specifically mentions students.
- c. Must be available for work and willing to quit school, except for approved training.
- d. Regulation specifically mentions students.

## Disqualification for Leaving Work to Attend School

State laws vary with respect to workers remaining eligible for UC benefits while leaving their jobs to attend school. Just over half the states, including the District of Columbia, disqualify individuals from UC benefits for leaving work to attend school. However, many states make exceptions for students leaving work to attend approved training sessions, union apprenticeships, or training under TAA. About one-third of states allow students to remain eligible for UC benefits if leaving work and pursuing one of these forms of training. Finally, a few states do not disqualify students from UC benefits for leaving work to attend school. **Table 2** shows variation among the states.

As **Table 2** shows, most states disqualify students if they leave their jobs to attend school. The main exceptions to this policy are if the student is leaving work to attend approved training or training under TAA. Only eight states have no restrictions on students leaving work and remaining eligible for UC benefits.

**Table 2. UC Eligibility for Individuals Who Leave Work to Attend School**

	No Restrictions	Eligible if attending approved training	Eligible if attending TAA training	Not UC Eligible
Alabama				X
Alaska		X		
Arizona		X		
Arkansas				X
California		X		
Colorado <sup>a</sup>				X
Connecticut <sup>a</sup>				X
Delaware				X
District of Columbia				X
Florida				X
Georgia			X	
Hawaii				X
Idaho				X
Illinois			X	
Indiana			X	
Iowa				X
Kansas			X	
Kentucky				X
Louisiana	X			
Maine				X
Maryland <sup>a</sup>				X
Massachusetts				X
Michigan <sup>a</sup>				X
Minnesota		X		
Mississippi				X
Missouri				X
Montana	X			
Nebraska				X
Nevada		X		
New Hampshire				X
New Jersey		X		
New Mexico				X
New York	X			
North Carolina	X			
North Dakota	X			
Ohio			X	
Oklahoma	X			
Oregon <sup>b</sup>				X
Pennsylvania			X	
Puerto Rico <sup>c</sup>				
Rhode Island			X	
South Carolina				X
South Dakota				X
Tennessee	X			
Texas <sup>a</sup>				X
Utah <sup>d</sup>				X
Vermont				X
Virginia <sup>e</sup>				X

	No Restrictions	Eligible if attending approved training	Eligible if attending TAA training	Not UC Eligible
Virgin Islands	X			
Washington			X	
West Virginia <sup>a</sup>		X		
Wisconsin			X	
Wyoming		X		
<b>Total</b>	<b>8</b>	<b>8</b>	<b>9</b>	<b>27</b>

**Source:** Congressional Research Services (CRS) table compiled from *Comparison of State Unemployment Insurance Laws*, 2012, U.S. Department of Labor, Employment and Training Administration, pages 5-34 to 5-37.

- a. State statute specifically mentions students.
- b. Disqualified for leaving work, unless required by law to attend school. Regulation specifically mentions students.
- c. Information not available.
- d. Regulations specifically mention students.
- e. Based upon case law.

## Approved Training

Individual states approve the training programs they deem appropriate for students to attend and remain eligible for UC benefits. Typically, state workforce agencies determine the training providers that would be qualified to provide educational programs. These programs generally include those provided by a state under the Workforce Investment Act (WIA), the Trade Adjustment Assistance for Workers (TAA) program, and potentially other state-approved training programs.

The Workforce Investment Act of 1998 (WIA; P.L. 105-220) is the primary federal program that supports workforce development. Title I of WIA authorizes state formula grants to provide job training and related services to unemployed or underemployed individuals. These programs are primarily administered through the Employment and Training Administration of DOL, but operated in partnership with each state.<sup>13</sup> TAA, on the other hand, provides federal assistance to workers who have been adversely affected by foreign trade. The Trade Adjustment Assistance Extension Act of 2011 (TAAEA; Title II of P.L. 112-40) most recently authorized TAA.<sup>14</sup>

Because approved training is granted at the discretion of each state, the types of training offered vary widely, even under programs eligible through WIA and TAA. Approved training is constituted by both public and private options. These options can include employer-based training, remedial programs, prerequisite education or coursework required to enroll in an approved training program, technical skills classes, and various trade and vocational courses. Training providers may have an agreement or contract with state workforce agencies to provide these particular programs. They can be delivered in a number of ways, either through the classroom, via correspondence or web-based applications, or apprenticeships.

<sup>13</sup> For more information about training under WIA, see CRS Report R41135, *The Workforce Investment Act and the One-Stop Delivery System*, by David H. Bradley.

<sup>14</sup> For more information on training available under TAA, see CRS Report R42012, *Trade Adjustment Assistance for Workers*, by Benjamin Collins.

## Conclusion

The treatment of students within the UC program varies by state. Only a few states allow students to attend school and qualify for UC benefits if unemployed. Generally, in approximately half the states, students must be able to show that they are available for and seeking full-time work to be eligible for UC benefits. This can be a high standard to meet, as many students are attending school full-time. In addition, some states require that students demonstrate that they would be willing to quit school to work if offered a job.

In the instance of workers leaving their jobs to attend school, states are less flexible in allowing individuals to continue receiving UC benefits. Generally, about one-third of states allow individuals to remain benefits eligible only if they are taking training courses under TAA, WIA, or other state-approved program.

The content of approved training classes varies from state to state. Typically, each state workforce agency is granted discretion as to what constitutes approved training for the purposes of attending school and remaining benefits eligible. States identify training providers that are eligible or qualified to receive funds under WIA or TAA.

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## Acknowledgments

This report was originally sole-authored by Alan P. Eder while on a rotational assignment to the Congressional Research Service as a Presidential Management Fellow. Congressional clients may direct all inquiries to the currently listed author.

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